

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JAMELLE L. RUSSELL,

Plaintiff,

v.

WASHOE COUNTY PUBLIC DEFENDER,  
*et al.*,

Defendants.

Case No. 3:16-cv-00585-MMD-WGC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 3) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (ECF No. 1) and *pro se* complaint (ECF No. 1-1). Plaintiff had until October 31, 2016, to object to the R&R. To date, no objection has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
3 view that district courts are not required to review "any issue that is not the subject of an  
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
7 which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
9 determine whether to adopt Magistrate Judge Cobb's R&R. The Magistrate Judge  
10 recommends dismissing without prejudice the complaint for failure to state a claim and  
11 denying the application to proceed *in forma pauperis* as moot. Upon reviewing the R&R  
12 and records in this case, this Court finds good cause to adopt the Magistrate Judge's  
13 R&R in full.


14 It is therefore ordered, adjudged and decreed that the Report and  
15 Recommendation of Magistrate Judge William G. Cobb (ECF No. 3) is accepted and  
16 adopted in its entirety.

17 It is ordered that this case is dismissed without prejudice for failure to state a  
18 claim. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is denied as moot.

19 It is further ordered that the Clerk send Plaintiff two (2) copies of an *in forma*  
20 *pauperis* application form for a prisoner, one (1) copy of the instructions for the same,  
21 two (2) copies of a blank 28 U.S.C. § 2254 habeas corpus form, and one (1) copy of the  
22 instructions for the same. Plaintiff is advised that he may file a habeas corpus petition  
23 and an *in forma pauperis* application in a new action, but he may not file any further  
24 documents in this action.

25 The Clerk is instructed to close this case.

26 DATED THIS 22<sup>nd</sup> day of December 2016.

27   
28 MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE